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OFFICE OF PETITIONS

In re Application of	:	
Edward J. Hubbell	:	
Application No. 10/606,980	:	DECISION GRANTING
Filed: June 26, 2003	:	PETITION
Attorney Docket No. 5308-260	:	

This is a decision on the petition filed February 25, 2005, requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded date of June 27, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

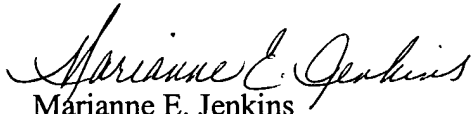
The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on June 26, 2003 pursuant to 37 CFR 1.10. In support, petitioner provides a copy of the Express Mail label receipt no. EV353610421US. The same Express Mail receipt number was referred to in the copy of the application transmittal letter submitted with the instant petition. It is noted that while the "date-in" of the Express Mail label is left blank, it includes USPS receipt date stamp of June 26, 2003. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is June 26, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. That is the date that verifies the package in question was actually mailed. The evidence is convincing that the application was deposited as Express Mail with the USPS on June 26, 2003.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to June 26, 2003**. Thereafter, the application file will be forwarded to Technology Center 3700 for review of the amendment filed March 7, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

A handwritten signature in cursive script, reading "Marianne E. Jenkins".

Marianne E. Jenkins

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy